

AMENDMENT OF THE PATENT LAWS.

[To accompany bill H. R. No. 732]

JANUARY 16, 1857.

Mr. PAINE, from the Committee on Patents, made the following

REPORT

The Committee on Patents beg leave to report :

That the purpose of this bill is to regulate and facilitate the business of the Patent Office, by removing some of the most prominent inconveniences of the present system that experience has shown to exist, and thereby to afford enlarged facilities to all parties to obtain speedy justice.

As the law now is, if two or more litigants are before the Patent Office, no power exists to compel a witness to testify in the case; no evidence can be obtained that is not volunteered. The first section of the bill remedies this defect in the present law, carefully guarding the rights of all parties.

The second section modifies the present system of examination, so as to remedy a defect that has grown out of the necessary increase of the examining corps, (now twenty-four in number,) by the rapid enlargement of the business of the office, which has expanded beyond the capabilities of the original law. This section provides a board of three examiners-in-chief to supervise and regulate the official decisions. They are officers requiring as much talent and learning as any scientific officers under government. The salary affixed to them in the bill is the same as that now paid the principal assistant of the Superintendent of the Coast Survey, and the Commissioner's salary is made the same as the Superintendent of the Coast Survey.

Instead of allowing an appeal to a judge of the district court of the District of Columbia, as under the present law, a final appeal is given to the Commissioner of Patents on payment of two-fifths of the sum now charged on appeals.

The fourth section of the bill removes from the office innumerable useless, unpatented models, found to have no novelty, that now occupy a large portion of the room of the Patent Office, and their accumulation hereafter is prevented. Much waste of time and expense will thus be saved.

The fifth section of the bill abolishes the agencies for the transmission of models at government expense; authority is also given to the Commissioner to authorize a clerk to frank the official documents of the office.

The sixth section is intended to give the commissioner a proper control over the mode of presenting and arguing cases before the office. In the succeeding section, that part of the present law is repealed, which allows an addition to letters patent; it also determines the time of notice to the caveator in a case of interference. The power to withdraw moneys paid in on application for a patent is repealed; and by the modified rates of fees proposed in the eighth section, the first payment made with the application for patent, is reduced or modified, by which the present inconvenient system of receiving into the treasury to be withdrawn is abolished; and much official time and annoyance, as well as trouble to the applicant, will thus be saved. The table of fees here proposed, is more convenient, just and equitable, and no distinction is made in it between the citizen and a foreign applicant. This is in accordance with the repeated recommendation of the Commissioner of Patents, and with the laws of the most enlightened European nations, in which no such distinction is made. In some of the British colonies bordering upon our territory, citizens of the United States are not allowed the protection of letters patent; it has therefore been deemed just and proper to reciprocate until they admit our citizens to the favor of the protection to which they are equitably entitled. The ninth section is for that purpose.

The tenth, eleventh, and twelfth sections provide for the printing of the current patents. This is a matter of great importance, not only to the inventor, but to the whole public. Each patent issued, if valid, has the power of a statute law, and it is a presumption of law that every person has a knowledge of the contents, while in fact patents are now sealed books to the great body of the people. If they are printed and properly distributed to all parts of our extended country, the citizens north, south, east, and west will be equally well informed, and have the same facilities as those of the District of Columbia. With this diffusion of knowledge, the mechanical industry of the country will be improved, and the labor and cost of producing old devices will be saved. The agriculturist, mechanic, and manufacturer will alike be benefited.

An able jurist on the bench of the Supreme Court says: "The people generally should have some more convenient way of getting a knowledge of patent specifications, of which the courts treat them as having *notice*, not only that they may be able to adopt and purchase such inventions and discoveries, but that they may not, as is very often the case, get themselves involved in litigation, or be made the subjects of *black mail levies*, on account of their ignorance of matters which the law presumes them to know, while it furnishes them no means of acquiring that knowledge."

Now, the official records and drawings of patents are daily in the hands of persons connected with the Patent Office for inspection, and subject to injury either by accident or design; this would be avoided if they were printed. The great cost of certified copies often required in patent suits would be saved by placing copies, as proposed by the bill, within the reach of the court. This cost has frequently amounted to three or four hundred dollars; it has sometimes reached a cost of more than one thousand dollars, and in one patent the cost of certified

copies for the trial of the numerous cases under it has been estimated at the enormous sum of ten thousand dollars; this would have all been saved, or nearly so, had there been copies in the various courts. If the several examiners of the Patent Office had copies at their command, of the patents they are required to examine in the course of their official duty, there would be a great saving of time, and the efficiency of the present force would be proportionally increased.

The committee have instructed me to report the accompanying bill, with a recommendation that it do pass.

ROBERT T. PAINE.

For the purpose of the present report, the committee has been authorized to investigate the charges against Robert T. Fay, and to report thereon to the House of Representatives. The committee has the honor to acknowledge the assistance of the various departments of the Government, and the cooperation of the various officers and employees of the same, in the performance of its duty. The committee has also the honor to acknowledge the assistance of the various members of the House of Representatives, and the cooperation of the various officers and employees of the same, in the performance of its duty.

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